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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy Wells.

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## DIGEST

Jackson (SB 507)

Present law provides that the Board of Ethics is to administer certain provisions of present law, including the Code of Governmental Ethics and the Campaign Finance Disclosure Act.

Proposed law provides that the Board of Ethics is also to administer the provisions of proposed law relative to lobbying of local government.

Present law provides that, on a regular basis, the Board of Ethics is to conduct educational activities, seminars, and publish appropriate materials that provide instruction and information relative to the subjects of ethics and conflicts of interest concerning certain provisions of present law, including the Code of Governmental Ethics and the Campaign Finance Disclosure Act.

Proposed law makes this provision of present law applicable to proposed law.

Present law provides that the Board of Ethics is to design and make available to all interested persons via the Internet training and educational materials pertaining to certain provisions of present law, including the Code of Governmental Ethics and the Campaign Finance Disclosure Act.

Proposed law makes this provision of present law applicable to proposed law.

Proposed law defines terms, including:

- (1) Local government action - means any act by a local agency or official to effectuate the public powers, functions, and duties of a local government official or a local government agency, including but not limited to any act in the nature of policymaking, rulemaking, adjudication, licensing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to adopt, repeal, increase, or decrease any fee imposed on the affairs, actions, or persons regulated by a local government agency; or to affect the passage, defeat, or implementation of any legislation.
- (2) Local government agency - any authority, office, department, district, unit, board, commission, institution, or any quasi-public entity created in local government by or pursuant to law or by or pursuant to the constitution in a local governmental or local political subdivision. Excludes any unit of the executive, legislative, or judicial branches of state government or any agency thereof.

- (3) Local government official - an elected official, an appointed official, or an employee in a local government agency.
- (4) Expenditure - the gift or payment of money or any thing of value for the purchase of food, drink, or refreshment for the purpose of lobbying and any gift or payment permitted by the ethics code for certain events for a local government official, his spouse, or minor child for the purpose of lobbying when the lobbyist or principal accounts or would be expected to account for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's, or the principal's trade or business.
- (5) Lobbying - any direct act or communication with a local government official, the purpose of which is to aid in influencing a local government action.
- (6) Lobbyist - any person who is employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the principal duties of such employment or engagement and makes an expenditure in excess of \$500 in the aggregate within a calendar year or any person who acts in a representative capacity and makes an expenditure in excess of five hundred dollars in the aggregate within the calendar year. However, "lobbyist" does not mean a person who does not make any direct act or have any direct communication with a local governmental official for the purpose of influencing a local governmental action.

Proposed law provides that except as otherwise provided for lobbyist's principals and employers, provisions are applicable only to persons who are lobbyists. Proposed law specifies that an elected or appointed official or any designee of such an official acting in the performance of his public duties is not to be considered a lobbyist as defined in proposed law.

Proposed law provides that persons register with the ethics board as soon as possible after employment as a lobbyist or after the first action requiring registration whichever occurs first, but in no event later than five days after employment or five days after the first action requiring his registration whichever occurs first. Requires that the registration be filed electronically with the board.

Proposed law provides that registration renewal can occur anytime from Dec. 1 until Jan. 31 and that failure to renew by Jan. 31 of each year causes registration to expire retroactively to Dec. 31. Requires that the lobbyist provide the following information: his name, business address, the name and address of his employers and persons whose interests he represents, including the business in which such person is engaged, and the name of each person by whom he is paid; and adds that he must include with his initial registration one copy of a 2" x 2" photograph made within six months prior to the initial registration. Requires a supplemental registration form to be filed when any information changes.

Proposed law further requires that the following information be filed by a lobbyist:

- (1) The amount he is paid or is to be paid for lobbying using category ranges established in proposed law. Category ranges in proposed law are: Category I, less than \$24,999; Category II, \$25,000 - \$49,999; Category III, \$50,000-\$99,999; Category IV, \$100,000-\$249,000; Category V, \$250,000 or more.
- (2) A characterization of such payment as paid, earned but not received, or prospective.
- (3) An indication of potential subject matter about which he anticipates lobbying. Proposed law provides that such indication is to be made by choosing from one or more items on a list of potential subject matter categories. Proposed law lists 32 such categories. Proposed law provides that the unintentional omission of a potential subject matter is not a violation.
- (4) The identity of each elected local government official or spouse of an elected local government official with whom he or his employer or principal has, or has had in the preceding 12 months a business relationship.

Proposed law defines "business relationship" (relative to a local government official and his spouse) as any transaction, contract, or activity that is conducted or undertaken for profit and which arises from a joint ownership interest, partnership, or common legal entity between a lobbyist, his employer, or principal and a local government official or his spouse when the local government official or his spouse owns 10% or more of such interest or entity.

Proposed law provides that within 10 days of the termination of a registrant's employment or representation, such registrant must file a supplemental registration with the ethics board acknowledging termination. Proposed law also provides that a registrant who ceases activities that require him to register must file a supplemental registration acknowledging termination of lobbying activities, and that each such registrant is required to file disclosure reports for each reporting period he was registered.

Proposed law provides that whenever any information contained in his registration changes, a lobbyist must file a supplemental electronic registration as soon as possible and in no event not later than five days of such change using forms provided by the board.

Proposed law requires lobbyists to pay a \$110 fee for each registration and renewal filed.

Proposed law requires that, as provided by ethics board rule, each lobbyist file monthly, a report of all expenditures required to be reported during the reporting period. Requires each report to include the total aggregate expenditures during the calendar year, aggregated as prescribed by the ethics board. Proposed law provides that the lobbyist must also report by name and agency the total expenditures for any local government official, his spouse, or minor child during a reporting period and the total amount of expenditures for any such local government official, his spouse, or minor child during the calendar year.

Proposed law requires the ethics board to promulgate rules and forms to prescribe the level of

organization unit or units of a local government agency for which expenditures are required to be aggregated.

Proposed law also provides that each report is to include a statement of total expenditures for each registration or social gathering to which 25 local government officials are invited and is to include the name of the group(s) invited and the date and location of the reception or social gathering. Amounts so reported are not attributable to individual officials for reports as required above. Exempts from reporting requirements any expenditures by a lobbyist for a reception or social gathering held in conjunction with a meeting of a national or regional organization of local government officials and expenditures for a meal or refreshment consumed or offered to a local government official giving a speech, being a member of a panel, or otherwise being involved in an informational presentation to a group.

Proposed law requires any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist to be reported by the lobbyist. Requires any lobbyist's principal or employer who makes direct expenditures required to be reported to timely furnish its lobbyist information about such expenditures as necessary for compliance. Requires such information to be furnished to the lobbyist no later than two business days after the close of each reporting period.

Proposed law additionally specifies that any lobbyist's principal or employer who makes direct expenditures required to be reported and who fails to provide its lobbyist such information is required to register as a lobbyist and is subject to penalties for violations.

Proposed law allows a lobbyist's principal or employer to opt to file the required reports on behalf of all of the lobbyists who represent such principal's or employer's interests. Proposed law requires the principal or employer to notify the ethics board no later than January 31 of each year. Proposed law provides that such option shall be effective for the reporting of all expenditures made during that calendar year. Proposed law requires the notification to include a listing of all persons on whose behalf the lobbyist's principal or employer is filing reports. Proposed law requires any lobbyist whose principal or employer opts to file the required reports to timely furnish its principal or employer all information about expenditures as necessary for compliance, no later than two business days after the close of each reporting period. Proposed law provides that any lobbyist's principal or employer who opts to file the required reports who fails to file or timely file such reports are liable for and subject to any applicable late fees or penalties, or both.

Proposed law requires that the ethics board:

- (1) Register lobbyists and assign lobbyist registration numbers. Requires such number to be inscribed on registration forms and reports of the lobbyist.
- (2) Issue each registered lobbyist a copy of the provisions and rules adopted.
- (3) Promulgate all necessary rules and forms, including but not limited to rules and forms to prescribe the level of organizational unit or units of a local government agency for which

expenditures required to be reported are to be aggregated.

- (4) Publish all necessary forms electronically. Requires the board to make registration filings available to the public via the Internet.

Proposed law makes the ethics board responsible for enforcement, and provides that provisions for enforcement of the Code of Governmental Ethics apply, including investigation, hearing procedures, confidentiality, penalties, appeals, powers of the ethics board, and enforcement of orders. Proposed law prohibits commencement of enforcement actions after two years after the alleged violation.

Proposed law authorizes the ethics board to impose and collect penalties and authorizes the ethics board to censure any person found guilty of a recurring or egregious violations of proposed law and prohibits such person from lobbying for not less than 30 days and not more than one year.

Proposed law provides for late fees of \$50 per day for failure to timely register or timely file any report required by proposed law. Proposed law provides that for being 11 or more days late in registration or filing a report, after a hearing by the ethics board, a civil penalty may be assessed not to exceed \$10,000.

Proposed law provides that prior to the effective date of proposed law and effective upon signature of the governor, the Board of Ethics is to take whatever action necessary, including the promulgation of rules and forms, for the implementation and administration of the provisions of proposed law by January 1, 2011.

Effective August 15, 2010.

(Amends R.S. 42:1132(D), 1134(N), and 1157(A)(1) and (3); adds R.S. 33:9661-9669)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Re-defines the term "lobbyist".